



State of California

EMPLOYMENT TRAINING PANEL

Gray Davis
Governor

March 2, 2001

John Duncan
Chairman

TITLE 22 CALIFORNIA CODE OF REGULATIONS

Aram Hodess
Vice Chairman

EMPLOYMENT TRAINING PANEL

Clifford Cummings
Member

NOTICE OF PROPOSED RULEMAKING

Patricia A. Murphy
Member

The Employment Training Panel ("Panel") plans to formally adopt the emergency regulations described below after considering all comments, objections or recommendations regarding the proposed action.

Tom Rankin
Member

PUBLIC HEARING

Laurel Shockley
Member

Pat Williams
Member

The Panel has not scheduled a public hearing on this proposed action. However, the Panel will hold a hearing on April 16, 2001, at the Panel's Sacramento Central office, if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

Dan F. Trammell
Member

WRITTEN COMMENT PERIOD

Ada Carrillo
Acting Assistant Director

Any interested person, or authorized representative, may submit written comments to the Panel relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on April 16, 2001. All comments must be submitted in writing (by mail, fax or e-mail) and received by that time at the Panel's office. Submit comments to:

Peter G. DeMauro
General Counsel

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1100 J Street, 4th floor
Sacramento, CA 95814
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PROPOSED REGULATORY ACTION

The Panel proposes to formally adopt sections 4400(hh), Definition of "Working poor" and 4400(ii), Definition of "High unemployment areas"; and amend sections 4400(ee), Definition of "Frontline worker"; 4407, Workforce Investment Boards; 4409, Special Employment Training Projects; and 4420, Literacy Training, in Title 22 of the California Code of Regulations. The Office of Administrative Law (OAL) approved this regulatory action as an emergency on January 8, 2001. These sections also became effective on January 8, 2001.

Unemployment Insurance Code, section 10205(m) directs the Panel to adopt by regulation procedures for the conduct of Panel business, including the scheduling and conduct of meetings, the review of proposals, the disclosure of contacts between Panel members and parties at interest concerning particular proposals, contracts or cases before the Panel or its staff, the awarding of contracts, the administration of contracts, and the payment of amounts due to contractors.

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ETP (2/20/01)

The Panel proposes to (1) adopt section 4400(hh) to clarify the criteria for training under the “working poor” category; (2) adopt section 4400(ii) and amend sections 4400(ee) and 4409 to specify the allowable categories of training under SET projects; (3) amend section 4407 to apply the criteria for Panel delegation of contract approval to Workforce Investment Boards and establish guidelines for marketing contracts with Workforce Investment Boards; and (4) amend section 4420 to revise the exception to the literacy training limits.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law states that the purpose of the Panel's enabling legislation is to establish a strategically designed employment training program to promote a healthy labor market in a growing, competitive economy. This employment training program shall foster job creation, minimize employer unemployment insurance costs, and meet the need for skilled workers by providing skills training to those who have remained unemployed, and to potentially displaced workers who would otherwise become unemployment insurance recipients.

It is further the intent of the Legislature that training funded pursuant to these statutory sections and existing regulations make a substantial contribution to the long-term job security of the trainees, and that all training funded through this program result in full-time employment for those successfully completing the training.

Unemployment Insurance Code, section 10205(m) authorizes the Panel to adopt regulations which implement, interpret or make specific section 10200 et seq. of the Unemployment Insurance Code.

On January 8, 2001, OAL approved the following changes as an emergency regulatory action:

Existing regulation does not define the terms “working poor” and “high unemployment areas.” The proposed regulations would define these terms.

Existing regulation defines “frontline worker” to include only employees who meet certain criteria. However, owners of businesses with fewer than 10 employees should also be classified as frontline workers because it is commonplace for owners of such small businesses to spend the majority of their time performing frontline worker duties. The proposed amendment would expand the definition of “frontline worker” to include a small business owner whose prime responsibilities are comprised of directly producing or delivering goods or services.

Existing regulation delineates the criteria which a Private Industry Council must meet prior to a Panel delegation of contract approval authority. The proposed amendment would revise the criteria to apply to Workforce Investment Boards, the successors to Private Industry Councils. Additionally, existing law does not provide direction as to how Workforce Investment Boards can apply for marketing resources. The proposed amendment would establish criteria for Workforce Investment Boards applying for marketing resources.

Existing law for SET projects identifies allowable categories of training, most of which were deleted under Chapter 491, Statutes of 2000. However, the Panel's revised legislation does not elaborate on the allowable types of training under the SET category. The proposed regulation would revise the allowable categories of training to delete the existing categories and enact new categories to implement the new law.

Existing regulation limits funding of basic and literacy skills training to 45% of the total vocational skills training hours under a Panel funded program. The proposed amendments would permit the funding of basic and literacy skills training up to 100 percent of the total vocational skills training hours per trainee for certain specified trainee groups with a special need for expanded training in these skills.

EFFECT OF PROPOSED ACTION

The proposed regulatory action would implement and make specific the Unemployment Insurance Code sections governing operation of the Panel. The Panel program is designed to provide funds for training the California workforce in the skills necessary for California businesses to remain viable and compete in both the national and global economies, while providing workers with good wages and secure employment. The proposed regulatory

action is promulgated to assist the Panel in better meeting the training needs of California frontline workers. This proposed regulatory action will help provide frontline workers with the skills needed to obtain and maintain secure employment with good wages.

ASSESSMENT STATEMENT

The proposed action also has been assessed relative to the extent which it will create new jobs within the State of California, the creation of new business within the State, and the expansion of businesses currently doing business within the State of California. The intent and purpose of the Panel program are to foster job creation, foster retention of high-wage, high-skilled jobs that are threatened by out-of-state competition, train new employees of firms locating or expanding in the state, train displaced workers and develop workers with skills that prepare them for the challenges of a high performance workplace of the future.

The Panel Strategic Plan 1998-2001, was utilized as evidence of the effect which the Panel program will have on these factors. It is anticipated that the proposed action will also have a beneficial effect on creation of new jobs and new business within the State, as well as expansion of businesses currently doing business within the State of California. In Fiscal Year 1999-00, the Panel committed all of its available training funds. The Panel also allocates funds for economic development to prevent companies from leaving the state, or to strengthen businesses that are expanding or relocating in California. Pursuant to 1 CCR 4, the Panel has determined that the proposed regulatory action may affect small businesses as defined in this section.

AUTHORITY AND REFERENCE

Unemployment Insurance Code, section 10205(m) authorizes the Panel to promulgate the proposed regulations, which will implement, interpret or make specific sections 10201.5, 10204, 10205, 10209, and 10214.5 as follows:

Unemployment Insurance Code, section 10201.5 authorizes the Panel to waive the minimum wage requirements for the training of workers in regions of high unemployment and low job creation, including the working poor.

Unemployment Insurance Code, section 10204 provides guidelines for the Panel's delegation of contract approval to certain specified entities.

Unemployment Insurance Code, section 10205 outlines the general duties of the Panel.

Unemployment Insurance Code, section 10209 sets out guidelines for contract terms and payments.

Unemployment Insurance Code, section 10214.5 authorizes the Panel to fund SET projects.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES

The Panel has made an initial determination that adoption of these regulations will not have a significant statewide adverse economic impact on directly affected businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Panel has made an initial determination that the adoption of these regulations will not have a significant cost impact on representative private persons or businesses. The Panel is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

LOCAL MANDATE DETERMINATION

The Panel has determined that the proposed regulatory action does not impose any mandate on local agencies or school districts. The Panel has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action. Furthermore, the Panel has determined that the proposed regulatory action does not impose costs on any local agency or school district which must be reimbursed in accordance with Government Code section 17561.

COST OR SAVINGS TO STATE AGENCIES

The Panel has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

EFFECT ON FEDERAL FUNDING TO THE STATE

The Panel has determined that the proposed regulatory action results in no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Panel has made an initial determination that the adoption of these regulations will have no significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

The Panel must determine that no reasonable alternative considered by it, or that has otherwise been identified and brought to the attention of the Panel, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed regulatory action. The Panel invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the hearing, if requested, or during the written comment period.

CONTACT PERSONS

Requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based should be directed to:

Lisa Douglas
Employment Training Panel
1100 J Street, Fourth Floor
Sacramento, California 95814
Telephone: (916) 327-5263

In the event the contact person is unavailable, inquiries regarding the proposed regulatory action should be directed to the following backup contact person:

Deanna Fong
Employment Training Panel
177 Bovet Road, Suite 180
San Mateo, CA 94402
Telephone: (650) 655-6938

Inquiries concerning the substance of the proposed action may be directed to Deanna Fong at the address and phone number specified above.

**AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS**

The Panel will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its Sacramento central office, as specified herein. Additionally, this notice of proposed action, the initial statement of reasons, and the proposed text of the regulations are also available on the Panel's Internet Home Page (<http://www.etp.ca.gov>). As of the date this notice is published in the Notice Register, the rulemaking file consists of: (1) this notice, (2) the proposed text of the regulations, (3) the initial statement of reasons, and (4) the Panel Strategic Plan 1998-2001. Copies may be obtained by contacting Lisa Douglas at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the public hearing, if requested, and considering all timely and relevant comments received, the Panel may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the Panel adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Lisa Douglas at the address indicated above. The Panel will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on the Panel's Internet Home Page (<http://www.etp.ca.gov>).